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January 16, 2014

To: Supervisor Don Knabe, Chairman
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From: William T Fujioka
Chief Executive Officer 

SACRAMENTO UPDATE - PERMITTING OF HAZARDOUS WASTE FACILITIES

Executive Summary

This memorandum provides an update on the following:

- A report on a Senate oversight hearing on the Department of Toxic Substances Control's Hazardous Waste Management Program.
- Reports on the following Legislation of County Interest pertaining to hazardous waste facilities permitting:
 - **SB 712 (Lara)** - related to permitting of hazardous waste facilities operating under interim permit status issued prior to January 1, 1986.
 - **SB 812 (De León)** - related to the hazardous waste regulatory system and setting deadlines for when hazardous waste facilities' final permit decisions must be made by the Department of Toxic Substances Control.

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Oversight Hearing on the Department of Toxic Substances Control's Hazardous Waste Management Program

In December 2013, Senator De León requested that the Senate Environmental Quality Committee hold an oversight hearing on the State's hazardous waste regulatory system and the roles and responsibilities of the Department of Toxic Substances Control (DTSC), including the specific issues at the Exide Technologies lead battery recycling facility in Vernon.

On January 15, 2014, the Senate Environmental Quality Committee held the oversight hearing to identify and evaluate the gaps or failings within DTSC's Hazardous Waste Management Program. DTSC was asked to specifically address the following issues:

- What are the issues that have been found within the program where improvement is needed?
- What has DTSC done to begin to address those issues?
- What are the short and long-term future plans to strengthen this program to ensure adequate protection of public health and the environment?
- What is DTSC going to do to prevent future problems with this program?
- In specific instances what are changes that DTSC is making to illustrate changes?
- Are there statutory changes that could further strengthen California's management of hazardous waste?

Staff from the Department of Toxic Substances Control acknowledged the historic deficiencies of the DTSC's Hazardous Waste Management Program and reported that they are working to address those issues. For example, DTSC staff reported that the Department is currently in the process of incorporating many recommendations identified by a February 2013 audit of DTSC's permit process to develop a standardized permit process with clear decision criteria and corresponding standards of performance. The DTSC also reported that it released an update of its strategic plan in December 2013, which focuses on the need to reduce hazardous chemicals in products, partnering with green industry to foster safer technology, improving DTSC's process to become more simplified and efficient, and communities disproportionately affected by toxic harms.

The Senate Committee was also provided with information that the Senate Office of Oversight and Outcomes (SOOO) is also conducting a review, in response to questions raised by a consumer advocacy organization about alleged lack of enforcement and mismanagement of hazardous waste regulation by DTSC. It is expected that the SOOO's final review document will be released in the coming weeks.

After hearing testimony from members of the public, many who testified that they had traveled to Sacramento from Southern California, the Committee adjourned the hearing without taking any action.

Legislation of County Interest

SB 712 (Lara), which as amended on January 6, 2014, would establish a deadline requiring all hazardous waste facilities operating under an interim permit to either be approved by the Department of Toxic Substances Control (DTSC) for a final permit by July 1, 2015, or have their interim permit revoked.

Existing law requires the facilities handling hazardous waste to obtain a permit from the Department of Toxic Substances Control. Under current law, a hazardous waste facility subjected to the hazardous waste permitting requirements may continue to operate under a grant of interim status pending the review and decision of DTSC on the permit application.

SB 712 would: 1) require the DTSC to take final action prior to July 1, 2015 on an application for a hazardous waste facilities permit by any facility operating under interim permit status issued prior to January 1, 1986; 2) provide that interim status granted for a hazardous waste facility after January 1, 1986 but prior to January 1, 2015 shall terminate on January 1, 2020; 3) provide that any interim status granted for a hazardous waste facility shall terminate five years from the date on which the status was granted; and 4) make various findings and declarations stating that the Legislature intends to identify and protect overburdened communities that suffer from asthma, cancers and other illnesses born from heavy industrial pollution and ensure increased public participation from affected communities in governmental decision-making processes.

According to the author, this bill would require hazardous waste facilities that have been operating under an interim permit from DTSC for an extended period of time to achieve compliance with Federal and State hazardous waste laws and for DTSC to render a final permit decision by July 1, 2015, and would also limit the amount of time a facility can continue to operate under an interim permit to five years. The author further states that in April 2013 Exide Technologies, located in the City of Vernon, was ordered to close immediately by DTSC due to "an imminent and substantial danger to public

health, safety, and the environment," is currently operating under an interim permit that was issued in 1981, and has never been issued a final permit by DTSC.

SB 712 is supported by the City of Bell's Mayor Violeta Alvarez, Vice Mayor Ana Maria Quintana, and City Councilmembers Alicia Romero and Nestor Valencia; the Florence Firestone Merchants Association; and Lynwood Councilmember Jose Luis Solache. Currently, there is no opposition on file.

SB 712 passed the Senate Environmental Quality Committee by a vote of 8 to 0 on January 15, 2014. This measure now proceeds to the Senate Appropriations Committee for consideration. A hearing date has not been set.

SB 812 (De León), which as amended on January 6, 2014, would strengthen the hazardous waste regulatory system and set deadlines for when hazardous waste facilities' final permit decisions must be made by the Department of Toxic Substances Control (DTSC).

Existing law requires the facilities handling hazardous waste to obtain a permit from the Department of Toxic Substances Control. Existing law also requires an owner or operator of the facility intending to renew the facility's permit to submit a complete Part A application for a permit renewal prior to the expiration of the permit. Existing law also requires the owner or operator to submit a complete Part B of the application when requested by the department. Finally, existing law authorizes a hazardous waste facility in existence on a specified date or on the effective date of any statute or regulation that subjects the facility to the hazardous waste permitting requirements to continue to operate under a grant of interim status pending the review and decision of the department on the permit application.

SB 812 would change the requirements pertaining to the renewal of hazardous waste facilities permits by requiring that: 1) a complete renewal application, containing both Part A and Part B of the application, be submitted by the facility prior to the expiration of the permit; 2) DTSC to approve or deny the permit renewal application within 36 months or the permit is deemed denied; and 3) DTSC to approve or deny the permit renewal application by January 1, 2018 for permits that expire prior to January 1, 2015. The bill would also provide that interim status granted on or after January 1, 2015, terminates five years from the date the interim status is granted or on the date the department took final action on the application for a permit, whichever is earlier.

Support and opposition to SB 812 is unknown at this time.

Each Supervisor
January 16, 2014
Page 5

SB 812 passed the Senate Environmental Quality Committee by a vote of 6 to 0 on January 15, 2014. This measure now proceeds to the Senate Appropriations Committee. A hearing date has not been set.

This office is working with the Department of Public Works to analyze both bills to determine any potential impact to the County.

We will continue to keep you advised.

WTF:RA
MR:AO:ma

c: All Department Heads
Legislative Strategist